IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

WRIT PETITION NO : 751 of 1995

Between:

1 P.Ameer Saheb S/o Ibrahim Saheb
Kattukalva Street, Chittoor
2 P. Khader Basha S/o Ameer saheb
Kattukalva Street, Chittoor
3 P. Kareem S/o Ameer Saheb
State Excise dept., R/o Vayalpadu,
Chittoor Dist.

..... PETITIONERS

AND

1 The Commissioner of Survey Settelements & Land Records
Nampally Station Road, Hyderabad
2 The Director of Settlements IV Floor,
Gagan Vihar, Hyderabad
3 The Settlement Officer,Nellore now the Joint Collector, Chittoor
4 The Collector, Chittoor
Chittoor Dist. Chittoor

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records connected with Memo No.P3/1736/83, dt: 12-12-1994 and served on counsel on 16-1-1995 and quash the same by the issuance of any appropriate writ, order or direction more particularly one in the nature of a writ of certiorari.

Counsel for the Petitioner:MR.A.RANGACHARYULU

Counsel for the Respondent No.: GP FOR REVENUE

The Court made the following :

ORDER:

This writ petition is filed by the petitioners invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India with a prayer to call for the records connected with Memo No.P3/1736/83, dated 12-12-1994 and quash the same.

The case of the 1st petitioner is that petitioners-2 and 3 are his sons and that his father Ibrahim Saheb was inducted into possession of ryoti land admeasuring Ac.40.00 cents of land situate in Madhavaram village, Thumbapalem Estate by the landholder of Thumbapalem on 5.5.1944. After the death of his father during the year 1948, he continued to cultivate the lands and patta was ordered to be transferred in his name on 12.4.1949 by the Zamindarini. It is his further case that during the year 1961, the Forest Settlement Officer, Nellore has eliminated his land from the proposed forest block. It was challenged by the District Forest Officer, Chittoor in A.S.84 of 1975 before the Additional District Judge, Chittoor and the said appeal was dismissed confirming the order of elimination passed by the Forest Settlement Officer, Nellore. Pursuant to the findings in the appeal judgment, he preferred an application before the Settlement Officer, Nellore on 1.9.1979 for issuance of ryotwari patta and on a thorough enquiry, the Settlement Officer granted a joint patta in his favour and in favour of his sons. It is his further case that the Land Ceiling Authority accepted the declarations filed on his behalf and held that they have surplus land liable for surrender to the Government and on appeal, the appellate authority declared that they are not surplus holders and the said judgment has become final as the Government has not carried the matter before the High Court. However, the District Collector, Chittoor has preferred a revision before the Director of Settlement and the said revision in RP.No:104 of 1980 was dismissed on

4.5.1983. Aggrieved by the same, the District Collector carried the matter before the Commissioner of Survey and Settlement & Land Records and the Commissioner of Settlements setting aside the order of the Director of Settlements, cancelled the patta of the petitioner. Having aggrieved by the same, the present writ petition is preferred.

Heard the learned counsel on either side.

It is mainly contended by the learned G.P. for Revenue that the land in question is a forest land and as such, it vests with the Government and that the petitioners cannot claim the said land as a matter of right in the absence of any documents.

I have perused the material available on record. This case has a chequered career more than 40 years from the stage of Forest Settlement Officer, District Court, Chittoor, Director of Settlements and Commissioner of Settlements etc. Irrespective of the fact as to whether the petitioners succeeded at every stage prior to passing of the order impugned or not, since it is a matter involving mixed question of fact and as well as law as to the title of the petitioner, I am of the considered view that this writ petition cannot be entertained by invoking the jurisdiction of this Court under Article 226 of the Constitution of India and as such, the same is liable to be dismissed.

Accordingly, this writ petition is dismissed. No costs. However, in the facts and circumstances of the case, it is made clear that the petitioners are at liberty to avail any such remedy that is available under law, before the appropriate forum.

16-09-2004

Stp

Sd/-

.ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner of Survey Settelements & Land Records
Nampally Station Road, Hyderabad
2 The Director of Settlements IV Floor,
Gagan Vihar, Hyderabad
3 The Settlement Officer,Nellore now the Joint Collector, Chittoor
4 The Collector, Chittoor
Chittoor Dist. Chittoor

5.2CCs to G.P.for Revenue, A.P.High Court Buildings (OUT).

6.2CD copies

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

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